

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 910 - SB 1369**

February 27, 2019

**SUMMARY OF BILL:** Adds additional language to the definition of “provider auxiliary personnel” under the direct supervision of a provider that is licensed or otherwise authorized to furnish health care services. Specifies that any intentional or bad faith retaliation by a Health Maintenance Organization (HMO) for any assertion of any right for prompt payment, or discriminating against a provider through nonpayment, will yield an additional liability in the amount up to three times the liability for the loss awarded under Tenn. Code Ann. § 56-7-105 and an award of all reasonable and necessary attorneys’ fees.

Requires the Commissioner of the Department of Commerce and Insurance (DCI) to report any HMO or HMO subcontractor found in violation by the final, non-appealable judgment of a federal or state court of competent jurisdiction for further sanctions within 30 days of notice of the judgment. Further requires the Commissioner to promptly investigate the facts and circumstances surrounding the violation and determine whether the violation was willfully concealed from the General Assembly. Requires the Commissioner to report the results no later than 90 days after commencement of the investigation. If the Commissioner determines that the violation was willfully concealed, the HMO must be automatically expelled from the TennCare program effective on the 30<sup>th</sup> day following the Commissioner’s report to the General Assembly.

**ESTIMATED FISCAL IMPACT:**

**NOT SIGNIFICANT**

Assumptions:

- Based on information provided by the DCI, the Department can investigate the complaints and report the required information utilizing existing resources without an increased appropriation or reduced reversion.
- The Division of TennCare (Division) contracts with three MCOs for services, however, the proposed legislation will not impact any programs or policies of the Division; therefore, any fiscal impact is estimated to be not significant.
- This legislation will not impact any state employee, local education, or local government plans administered by the Department of Finance and Administration, Division of Benefits Administration, as the Division does not contract with any HMOs for healthcare services.

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**IMPACT TO COMMERCE:**

**Other Commerce Impact – Due to multiple unknown factors, an exact impact to commerce and jobs cannot be quantified with reasonable certainty.**

Assumption:

- Due to multiple unknown factors, such as the award amount, cost of attorney’s fees, and how many MCOs, if any, will act in retaliation or bad faith, a precise impact to commerce or jobs cannot be reasonably determined.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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